
Commerce & Labor Committee

HB 2234

Brief Description: Concerning beer and wine warehousing and distribution by a primary grocery distributor at the direction of an independent grocery store.

Sponsors: Representatives Conway, Condotta, Wood and Simpson.

Brief Summary of Bill

- Allows independent grocery stores to do central warehousing of beer and wine if vertically integrated stores are allowed to do central warehousing as a result of a court decision in the *Costco* case.

Hearing Date: 2/20/07

Staff: Joan Elgee (786-7106).

Background:

Washington and many other states have so-called three-tier systems for the sale and distribution of beer and wine in which the producer, distributor, and retailer tiers are separate.

Beer and wine must be delivered to the retailer's licensed premises, i.e., the individual store. Washington prohibits retailers from storing or taking delivery of beer and wine at a central warehouse.

In *Costco Wholesale Corporation v. Hoen, et. al*, (*Costco*) Judge Marsha Pechman of the U.S. District Court for the Western District of Washington ruled that the central warehouse ban was preempted by federal antitrust law. Judge Pechman stayed the judgment until May 1, 2007. The case is pending before the Ninth Circuit Court of Appeals with oral argument scheduled the week of March 5, 2007. Although the Ninth Circuit denied the state's request for a further stay pending its ruling on the appeal, it ruled the state may renew the request for a stay at oral argument.

Summary of Bill:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Legislative intent is stated that no segment of the grocery store industry be disadvantaged as the result of a judgment by the court in the *Costco* case. If, as a result of the *Costco* case, the Liquor Control Board permits retailers to take delivery of beer or wine at a central warehouse owned by the retailer, central warehousing by independent grocery stores that do not own a warehouse is permitted.

An independent grocery store may take delivery and store beer and wine at, and transport to its store from, a primary grocery distributor that supplies at least 30 percent of the independent grocery store's merchandise on a regular basis. An independent grocery store is defined as a store with a beer and wine grocery store license that makes retail sales of commercially prepared and prepackaged food and ingredients that are customarily sold for off-premises consumption, that is not primarily engaged in making retail sales of prepared food or food and food ingredients through vending machines, and does not own a warehouse. A primary grocery distributor makes wholesale sales of a broad mix of products, as further defined, to independent grocery stores.

Rules Authority: The Liquor Control Board may adopt rules to implement the provisions of the bill.

Appropriation: None.

Fiscal Note: Requested on February 15, 2007.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.